

ELAINE L. CHAO, Secretary of Labor,  
Plaintiff,  
v.  
ORIENTAL FOREST PALACE, INC.,  
et al.,  
Defendants.

Honorable Janet T. Neff

## REPORT AND RECOMMENDATION

This is a civil action brought by the Secretary of Labor to enforce the Fair Labor Standards Act of 1938. On March 24, 2009, the court issued a default judgment against the defendants on all liability issues, leaving only the issue of damages for litigation. On April 9, 2009, the Secretary filed a motion for the entry of an injunction and for monetary judgment. (docket # 47). After the Secretary filed her motion for entry of a final judgment, this court stayed all proceedings in the case on account of the suspension of defense counsel from the practice of law by the State Bar of Michigan. (Order Staying Case, docket # 54). The stay order directed all corporate defendants to procure new counsel by a date certain and directed the individual defendants to either procure counsel or to inform the court of their election to proceed *in pro per*. Defendants did nothing. A second default was entered as to all corporate defendants for failure to procure new counsel, and the individual defendants were directed to respond to plaintiff's motion for the entry of judgment.

No party has responded to the Secretary's motion, which has been pending for five months. The default of all defendants has been entered on the issue of liability, and no defendant has indicated any intention of contesting the injunctive and monetary relief sought by the Secretary. The Secretary's request for relief is amply supported by the affidavit of Mary Kay O'Rourke, Assistant District Director of the Grand Rapids, Michigan office of the Wage and Hour Division, and the exhibits attached thereto. (docket # 47-2). As no liability issues remain adjudicated, and defendants have not opposed the Secretary's request for the entry of judgment, I recommend that the Secretary's motion be granted.

#### **Recommended Disposition**

I recommend that the Secretary's motion for the entry of an injunction and a monetary judgment (docket # 47) be granted and that a judgment in the form proposed by the Secretary (attached as Exhibit B to her motion) be entered.

Dated: September 23, 2009

/s/ Joseph G. Scoville  
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United States Magistrate Judge

#### **NOTICE TO PARTIES**

Any objections to this Report and Recommendation must be filed and served within ten days of service of this notice on you. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). All objections and responses to objections are governed by W.D. MICH. LCIVR 72.3(b). Failure to file timely objections may constitute a waiver of any further right of appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Neuman v. Rivers*, 125 F.3d 315, 322-23 (6th Cir.), *cert. denied*, 522 U.S. 1030 (1997); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).